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Stuart Ozer

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EXAMINER

VAN HANDEL, MICHAEL P

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/991,025	<b>Applicant(s)</b> OZER ET AL.	
	<b>Examiner</b> MICHAEL VAN HANDEL	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/31/2007</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is responsive to an Amendment filed 12/21/2007. Claims **1-21** are pending. Claims **1, 12, 21** are amended. Claims **22-44** are canceled. The examiner hereby withdraws the objections to claims **21-26, 32-44** in light of the amendment.

### ***Response to Arguments***

1. Applicant's arguments regarding the "generating one or more metadata files..." limitations of claims **1, 13, and 21**, filed 12/21/2007, have been considered, but are moot in view of the new ground(s) of rejection.
2. Applicant's arguments regarding the "applying a rule..." limitations of claims **1, 13, and 21**, filed 12/21/2007, have been fully considered, but they are not persuasive.

Regarding claims **1, 13, and 21**, the applicant argues that the combination of Carruthers et al. and Zigmond et al. fails to teach or suggest applying a rule to the aggregation data to generate estimated historical data representative of all available receiver modules. The applicant further argues that the combination of Carruthers et al. and Zigmond et al. fail to disclose that aggregation data comprises historical data about already delivered advertising impressions, geographic information, demographic information, time of day, and programming viewed with the advertising impressions as a basis for the generation of estimated data representative of all available receiver modules. The examiner respectfully disagrees. The examiner first notes that the claim recites that the server computing system is connected to "one or more receiver

modules.” The USPTO considers the applicant’s “or” language to be anticipated by any reference containing either of the corresponding elements. Carruthers et al., for simplicity sake, only illustrates a single POP server 16 and a single client 10 (p. 2, paragraph 22 & Fig. 2). When a user logs on, the On-Demand Scheduler 70 calls the Local Matcher 72 to identify the advertisements the subscriber is eligible for. This is done by matching the profile of the user to the profiles of advertisements in the prioritized master list generated by the Delivery Manager 54. Some of the variables used in the matching include, e.g., if a subscriber has previously been sent an advertisement, when (date and time) that subscriber was last sent the advertisement, and how many total times the subscriber has been sent the advertisement (p. 3, paragraph 38). This meets the limitations of “receiving historical data from the receiver modules, the historical data comprising data about delivered advertising impressions” and “time of day,” “aggregating the received historical data,” and “the control module applying a rule to the aggregation data to generate estimated historical data representative of all available receiver modules,” as currently claimed.

Although Carruthers et al. only illustrates a single POP server 16 and a single client 10 in Figure 2, the examiner notes that this is done for simplicity sake and is representative of multiple POP servers connected to multiple clients disclosed by Carruthers et al. as illustrated in Figure 1 (Fig. 1). Carruthers et al. discloses that each POP server reports advertisement delivery feedback to the Delivery Manager (p. 2, 3, paragraph 26). A Capacity Forecaster 52 predicts whether the system will be able to deliver a proposed number of impressions to users of some given profile within a desired period of time (p. 3, paragraph 28). In view of the feedback, the Capacity Forecaster 52 can re-evaluate campaigns currently under execution and determine whether

constraints set by the advertiser should be relaxed to increase the likelihood of success of the campaign (p. 3, paragraph 30). The Capacity Forecaster determines whether the campaign goals (e.g., content to be delivered, number of impressions, target subscriber group, start and end dates, etc.) are achievable in view of forecasted inventory of user screen real estate (p. 2, paragraph 23). For example, the Capacity Forecaster can predict whether the system will be able to deliver a proposed number of impressions to users of some given profile within a desired period of time (p. 3, paragraph 28). The Capacity Forecaster determines campaign achievability by examining the number of qualified subscribers who match the campaign's profile using the Matcher 56 and then calculating the current load on those users due to previously scheduled campaigns (p. 3, paragraph 29). The Delivery Manager 54 can reorder or reprioritize the master list of scheduled advertisements based upon delivery feedback data (p. 3, paragraph 35). The On-Demand Scheduler delivers the advertisements and provides the Delivery Manager with data on the impressions delivered to each user so that the Delivery Manager can reprioritize its list of advertisements as needed (p. 4, paragraph 41). Therefore, while the scheduling functions performed by the On-Demand Scheduler are performed for each given user, they are performed in view of the forecasting and scheduling functions performed by the Master Server 18 that are representative of the aggregate of clients.

This is further illustrated in Nathaniel. Nathaniel discloses that the Inventory Manager 51 generates a master delivery plan expected to fulfill delivery contracts with advertisers by using delivery feedback information received from the On-Demand Scheduler 70 of each ITV server 16 in the system (p. 11, paragraph 103 & Fig. 2). The master plan specified a prioritized master list of advertisements, which is based upon priority and weighting mechanisms and which is sent

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to the On-Demand Scheduler 70 of each iTV server 16 (p. 11, paragraph 105). The Content Delivery System (CDS) Server 74 loads this plan from the database and generates a matrix of ads which are compatible with subscribers that are eligible to view these ads. The CDS Server will then order the matching ads based on an algorithm driven by the priorities and weights that have been assigned to the ads (p. 4, paragraph 31). Thus, the examiner maintains that Nathaniel and Carruthers et al. meet the limitations of “receiving historical data from the receiver modules, the historical data comprising data about delivered advertising impressions” and “time of day,” “aggregating the received historical data,” and “the control module applying a rule to the aggregation data to generate estimated historical data representative of all available receiver modules,” as currently claimed.

The examiner has acknowledged in the previous Office Action that Carruthers et al. does not specifically disclose that the historical data comprise geographic information, demographic information, and programming viewed with the advertising impressions; however, Zigmond et al. discloses collecting viewer information, including geographic location (p. 15, lines 13-15), demographic information (p. 15, lines 8-15), and the amount of time viewing particular channels and preferred types of programming (p. 16, lines 1-2 & p. 25, lines 12-16) and targeting advertisements on the basis of the geographic location (p. 21, lines 2-3), demographic information (p. 20, lines 25-26), and program watched (p. 18, lines 9-11). Thus, the examiner maintains that it would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the feedback and targeting data of Nathaniel and Carruthers et al. to include geographic location, demographic information, and programming viewed, such as that

taught by Zigmond et al. in order to more specifically target viewers in order to tailor advertisements to the interests and needs of viewers (Zigmond et al. p. 5, lines 6-8).

### *Claim Objections*

1. Claims **1-20** are objected to because of the following informalities:

Referring to claim **1**, the examiner notes that the phrase “the receiver modules” lacks antecedent basis. The claim previously recites “one or more receiver modules,” but fails to recite “receiver modules.” The examiner recommends that the phrase be changed to “the one or more receiver modules.”

Further referring to claim **1**, the examiner notes that the phrase “the aggregation data” lacks antecedent basis. The claim previously recites “aggregating the received historical data at the control module,” but fails to recite “aggregation data.” The examiner recommends that the phrase be changed to the “aggregated historical data.”

Still further referring to claim **1**, the examiner notes that the phrase “the number of advertising impressions” lacks antecedent basis. The claim previously recites “a method for scheduling the advertising campaign to achieve an advertising impression goal,” but fails to recite “a number of advertising impressions.” The examiner recommends that the phrase be changed to “a number of advertising impressions.”

Still further referring to claim **1**, the examiner notes that the phrase “the advertisements scheduled for future display” lacks antecedent basis. The claim previously recites “a method for scheduling the advertising campaign to achieve an advertising impression goal,” but fails to

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recite “advertisements scheduled for future display.” The examiner recommends that the phrase be changed to “advertisements scheduled for future display.”

Still further referring to claim 1, the examiner notes that the phrase “the one or more target viewers” lacks antecedent basis. The claim previously recites “one or more receiver modules,” but fails to recite “one or more viewers.” The examiner recommends that the phrase be changed to “one or more target viewers.”

Still further referring to claim 1, the examiner notes that the phrase “the timeframe” lacks antecedent basis. The claim previously recites “a method for scheduling the advertising campaign,” but fails to recite “a timeframe.” The examiner recommends that the phrase be changed to “a timeframe.”

Still further referring to claim 1, the examiner notes that the phrase “the one or more target viewers selected by the advertiser” lacks antecedent basis. “One or more target viewers” is previously recited in the claim in light of the examiner’s previous recommendation; however, there is no previous recitation of one or more target viewers being selected by an advertiser. The examiner recommends that the phrase be changed to “the one or more target viewers.”

Still further referring to claim 1, the examiner notes that the phrase “the advertisement content associated therewith” lacks antecedent basis. The claim fails to previously recite there being advertisement content associated with the weights. The examiner recommends that the phrase be changed to “advertisement content associated therewith.”

Still further referring to claim 1, the examiner notes that the phrase “the metadata files” lacks antecedent basis. The claim previously recites “one or more metadata files,” but fails to



recite “metadata files.” The examiner recommends that the phrase be changed to “the one or more metadata files.”

Referring to claim **3**, the examiner notes that the phrase “the requested impression goal” lacks antecedent basis. The claim previously recites “to achieve an advertising impression goal,” but fails to recite a “requested impression goal.” The examiner recommends that the phrase be changed to “a requested impression goal.”

Referring to claim **8**, the examiner recommends that the phrase “defining the advertisements as either a committed advertisement or a flexible advertisement” be changed to “defining each of the advertisements as either a committed advertisement or a flexible advertisement.”

Referring to claim **9**, the examiner notes that the phrase “the frequency of display” lacks antecedent basis. The examiner recommends that the phrase be changed to “a frequency of display.”

Referring to claim **10**, the examiner notes that the phrase “the advertising type” lacks antecedent basis. The claim previously recites “a type of display frequency for the advertisements,” but fails to recite “advertising type.” The examiner recommends that the phrase be changed to “an advertising type.”

Referring to claim **12**, the examiner notes that the phrase “the total number of advertising impressions available, total number of advertisements that have been scheduled as committed, total number of scheduled flexible advertisements and the total weight of the flexible advertisements for any defined target criteria” lacks antecedent basis. The claim previously recites “a schedule of available advertising inventory,” but fails to recite “total number of

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advertising impressions available. The claim further fails to previously recite “total number of advertisements that have been scheduled as committed,” “total number of scheduled flexible advertisements,” and “total weight of flexible advertisements for any defined target criteria.”

The examiner recommends that the phrase be changed to “a total number of advertising impressions available, total number of advertisements that have been scheduled as committed, total number of scheduled flexible advertisements and a total weight of flexible advertisements for any defined target criteria.”

Still further referring to claim **12**, the examiner notes that the phrase “the total impression goal and advertising weight for any defined target,” lacks antecedent basis. The claim previously recites “an advertising impression goal,” but fails to recite “total impression goal.” The claim also previously recites “assigning weights ... defining a type of display frequency,” but fails to recite advertising weights for defined targets. The examiner recommends that the phrase be changed to “a total impression goal and advertising weight for any defined target.”

Referring to claim **15**, the examiner notes that the phrase “the step for notifying an individual utilizing the planning module ...” lacks antecedent basis. The examiner recommends that the phrase be changed to “a step for notifying an individual utilizing the planning module ...”

Further referring to claim **15**, the examiner notes that the phrase “the requested impressions of one or more advertising campaigns” lacks antecedent basis. The claim fails to previously recite requesting impressions or “one or more advertising campaigns.” The examiner recommends that the phrase be changed to “a requested impressions of the advertising campaign.”

Referring to claim **16**, the examiner notes that the phrase “the step for overbooking one or more entries in the schedule ...” lacks antecedent basis. The claim fails to previously recite a “step for overbooking one or more entries in the schedule ...” The examiner recommends that the phrase be changed to “a step for overbooking one or more entries in the schedule ...”

Referring to claim **17**, the examiner notes that the phrase “the step for defining a target viewer of the one or more target viewers” lacks antecedent basis. The claim fails to previously recite a “step for defining a target viewer of the one or more target viewers.” The examiner recommends that the phrase be changed to “a step for defining a target viewer of the one or more target viewers.”

Referring to claim **18**, the examiner notes that the phrase “the computer readable medium” lacks antecedent basis. The examiner recommends that the phrase be changed to “the computer readable storage medium.”

Further referring to claim **18**, the examiner notes that the phrase “the step for defining each advertisement content ...” lacks antecedent basis. The examiner recommends that the phrase be changed to “a step for defining each advertisement content ...”

Referring to claim **19**, the examiner notes that the phrase “the step for weighting the advertisement” lacks antecedent basis. The claim previously recites “assigning weights to advertisements,” but fails to recite “weighting the advertisement.” The examiner recommends that the phrase be changed to “a step for weighting the advertisement.”

Further referring to claim **19**, the examiner notes that the phrase “the frequency of display of the advertising content” lacks antecedent basis. The claim previously recites “defining a type of display frequency,” but fails to recite “frequency of display of the advertising content.” The

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examiner recommends that the phrase be changed to “a frequency of display of the advertising content.”

Referring to claim **20**, the examiner notes that the phrase “the step for adjusting the advertising type and weights of different campaigns ...” lacks antecedent basis. The claim previously recites “assigning weights to advertisements in the advertising campaign,” but fails to recite “adjusting the advertising type and weights of different campaigns.” The examiner recommends that the phrase be changed to “a step for adjusting an advertising type and weights of the campaign ...”

Claims **2, 4-7, 11, 13, and 14** are objected to as being dependent on claim 1.

The examiner interprets the claims in the Office Action below as though the recommended changes have been made.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims **1, 3-11, 13, and 17-21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Nathaniel and Carruthers et al. (which is incorporated into Nathaniel by reference as noted in p. 1, paragraph 15 of Nathaniel) in view of Zigmond et al.

Referring to claims **1**, **13**, and **21**, Nathaniel and Carruthers et al. disclose at a server computing system/computer program product that is at least intermittently connected to one or more receiver modules (plurality of client machines 10)(Carruthers et al. Figs. 1, 2) in a network, wherein the server computing system comprises a planning module (Master Server 18) and a control module (PoP Server 16), wherein the planning module comprises an interface module (advertiser portal of Dynamic Campaign Manager component 50), a data module (Inventory Manager 51), a reservation module (Capacity Forecaster 52), and an aggregation module (master database 60), and wherein the one or more receiver modules are configured to display advertisements associated with an advertising campaign on a display device (Carruthers et al. p. 1, paragraph 15), a method for scheduling the advertising campaign to achieve an advertising impression goal, the method comprising:

- receiving historical data from the one or more receiver modules, the historical data comprising data about delivered advertising impressions and time of day (Carruthers et al. p. 2, paragraph 19 & p. 3, paragraphs 29, 38, 39);
- aggregating the received historical data (the examiner notes that the On-Demand Scheduler 70 retrieves whether the subscriber has previously been sent an advertisement, when that subscriber was last sent the advertisement, and how many total times the subscriber has been sent the advertisement and forwards feedback information to the Master Server)(Carruthers et al. p. 2, 3, paragraphs 23, 26, 28-30, 35, 38; p. 4, paragraph 41; & Figs. 1, 2)(Nathaniel p. 11, paragraphs 103, 105 & Fig. 2);

- the control module applying a rule to the aggregated historical data to generate estimated historical data representative of all available receiver modules (Carruthers et al. p. 3, paragraphs 39)(Nathaniel p. 4, paragraph 31);
- delivering the estimated historical data to the planning module (Carruthers et al. p. 2, 3, paragraphs 24, 26 & p. 4, paragraph 41);
- the planning module retrieving campaign data representing a number of advertising impressions of advertisements scheduled for future display to one or more target viewers (Carruthers et al. p. 3, paragraphs 29, 30);
- the planning module combining the historical data and campaign data to generate a schedule of available advertising inventory, the schedule usable by an advertiser to reserve advertising inventory for the advertising campaign so that the advertising impression goal for the advertising campaign is achieved within a timeframe and among the one or more target viewers (Carruthers et al. p. 2, paragraphs 23-26; p. 3, paragraphs 28-34; & Fig. 3);
- the reservation module assigning weights to advertisements in the advertising campaign, the weights defining a type of display frequency for the advertisements and advertisement content associated therewith (Carruthers et al. p. 3, paragraphs 28-35);
- generating one or more metadata files associated with advertisement content (Nathaniel p. 4, paragraphs 33-38), the one or more metadata files comprising an ID attribute uniquely identifying advertising content (Nathaniel p. 4, paragraph 34), an ad type attribute indicating whether an advertisement is committed or flexible

(Nathaniel p. 11, paragraph 108), an ad weight attribute which is a number (Nathaniel p. 4, paragraph 36) and wherein an absolute weight is calculated as an impression goal for a committed advertisement divided by a total inventory (the probability of delivery for each ad is calculated as the weight of the ad divided by the sum of the weights for the ads with the same priority. The probability of delivery corresponds to the percentage of available time slots over the time period in which the ad will be displayed)(Nathaniel p. 4, paragraphs 42, 44), and a schedule element describing when advertising content is to be displayed to a viewer (Carruthers et al. p. 3, paragraph 39); and

- delivering advertisement content and metadata files associated with the advertisements to at least one receiver module (Carruthers et al. p. 4, paragraph 41).

Nathaniel and Carruthers et al. further disclose that the set-top box at the client can perform the function of dynamically constructing the ordered list of advertisements to be delivered if there is no back channel of communication at the client (Nathaniel p. 3, paragraph 30). Nathaniel and Carruthers et al. do not specifically disclose performing this function at the set-top box when a back channel exists; however, Zigmond et al. discloses locally ordering the delivery of advertisements according to designated ad selection criteria when a back channel exists (p. 5, l. 29-31 & p. 6, l. 1-5, 17-26). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the set-top box of Nathaniel and Carruthers et al. to dynamically construct an ordered list of advertisements to be delivered when there is a back channel, such as that taught by Zigmond et al. in order to provide a system for selecting advertisements at a more local level (Zigmond et al. p. 5, lines 8-12) and to increase the

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efficiency of television advertising (Zigmond et al. p. 5, lines 20-21). The combination of Nathaniel and Carruthers et al. and Zigmond et al. further does not specifically disclose that the historical data comprises geographic information, demographic information, and programming viewed with the advertising impressions. Zigmond et al. discloses collecting viewer information, including geographic location (p. 15, lines 13-15), demographic information (p. 15, lines 8-15), and the amount of time viewing particular channels and preferred types of programming (p. 16, lines 1-2)(p. 25, lines 12-16) and targeting advertisements on the basis of the geographic location (p. 21, lines 2-3), demographic information (p. 20, lines 25-26), and program watched (p. 18, lines 9-11). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the feedback and targeting data of Nathaniel and Carruthers et al. to include geographic location, demographic information, and programming viewed, such as that taught by Zigmond et al. in order to more specifically target viewers in order to tailor advertisements to the interests and needs of viewers (p. 5, lines 6-8).

Referring to claim **3**, the combination of Nathaniel and Carruthers et al. and Zigmond et al. teaches a method as recited in claim 1, further comprising a step for notifying an individual when a requested impression goal for the advertising campaign exceeds the available advertising inventory (Carruthers et al. p. 2, paragraph 25).

Referring to claim **4**, the combination of Nathaniel and Carruthers et al. and Zigmond et al. teaches a method as recited in claim 1, further comprising a step for booking multiple advertising campaigns within the same timeframe and target, allowing the total advertising inventory to be split among these simultaneous campaigns according to various weights (Carruthers et al. p. 3, paragraphs 32-34).



Referring to claims **5** and **6**, the combination of Nathaniel and Carruthers et al. and Zigmond et al. teaches a method as recited in claim 4, further comprising a step for overbooking one or more entries in the schedule of the available advertising inventory (setting a campaign goal that exceeds available advertising inventory projections) and a step for resolving a conflict between the requested impression goal and the available advertising inventory (identifying and suggesting which constraints could be relaxed in order to achieve campaign goals)(Carruthers et al. p. 2, paragraph 25).

Referring to claims **7** and **17**, the combination of Nathaniel and Carruthers et al. and Zigmond et al. teaches a method/computer readable medium as recited in claims 1 and 13, respectively, further comprising a step for defining each of the one or more target viewers, each target viewer being defined by at least one of advertisement location data (see relevant passages from Zigmond et al. cited in the rejection of claim 1 above), market area data (see relevant passages from Zigmond et al. cited in the rejection of claim 1 above), and data indicative of a time interval that the advertisement is active (Carruthers et al. p. 3, paragraph 38).

NOTE: The USPTO considers the applicant's "at least one of" language to be anticipated by any reference containing any of the subsequent corresponding elements.

Referring to claims **8** and **18**, the combination of Nathaniel and Carruthers et al. and Zigmond et al. teaches a method/computer readable medium as recited in claims 1 and 13, respectively, further comprising a step for defining each of the advertisements as either a committed advertisement or a flexible advertisement (In addition to creating active advertising campaigns, Carruthers et al. discloses providing a set of default filler advertising impressions to

be displayed when there is no content available for a given user)(Carruthers et al. p. 5, paragraph 75).

Referring to claims **9** and **19**, the combination of Nathaniel and Carruthers et al. and Zigmond et al. teaches a method/computer readable medium as recited in claims 1 and 13, respectively, further comprising a step for weighting the advertisement, the weighting defining a frequency of display of the advertisement (Carruthers et al. p. 3, paragraphs 34, 35).

Referring to claims **10** and **20**, the combination of Nathaniel and Carruthers et al. and Zigmond et al. teaches a method/computer readable medium as recited in claims 1 and 13, respectively, further comprising a step for adjusting an advertising type and weights of the campaign at various times to avoid conflicts or overbooking before or during a scheduled campaign (this limitation is met by the citations noted in the rejection of claim 9 above).

Referring to claim **11**, the combination of Nathaniel and Carruthers et al. and Zigmond et al. teaches a method as recited in claim 1, wherein the control module comprises an advertising module (remote local database 76)(Carruthers et al. p. 2, paragraph 22 & Fig. 2), a manager module (Matcher 72)(Carruthers et al. p. 3, paragraph 38 & Fig. 2), and a historical data module (On-Demand Scheduler 70)(Carruthers et al. p. 3, paragraphs 38, 39 & Fig. 2), and the method further comprising the advertising module storing data in a database (remote local database 76), the data comprising advertisement content for advertisements (Carruthers et al. p. 2, paragraph 22).

3. Claims **2**, **12**, and **14-16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Nathaniel and Carruthers et al. in view of Zigmond et al. and further in view of Cannon.

Referring to claims **2** and **14**, the combination of Nathaniel and Carruthers et al. and Zigmond et al. teaches a method/computer program product as recited in claims 1 and 13, respectively. The combination of Nathaniel and Carruthers et al. and Zigmond et al. fails to specifically teach a step for displaying the schedule using a graphical user interface. Cannon discloses a graphical user interface 125 that provides access to a database mining engine (DME) 126, 127, that provides an opportunity for a media planner to distribute advertisements over time or space based on actual or anticipated individual or collective advertising exposure (col. 28, l. 22-31). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the combination of Nathaniel and Carruthers et al. and Zigmond et al. to provide an advertiser with a graphical user interface, such as that taught by Cannon in order to provide a more effective system for scoring, comparing and optimizing advertising campaigns for advertising agencies (Cannon col. 3, l. 21-25).

Referring to claim **12**, the combination of Nathaniel and Carruthers et al. and Zigmond et al. teaches a method as recited in claim 1, wherein the data module comprises an overall advertising inventory module (Campaign Forecaster 52) and an advertising detail inventory module (Delivery Manager 54), the overall advertising inventory module providing a summary view of advertising impression inventory and scheduled advertising campaigns, including information about a total number of advertising impressions available and total number of advertisements that have been scheduled as committed (Carruthers et al. p. 3, paragraphs 28-30) and the advertising detail inventory module providing detailed scheduling information for each scheduled advertisement comprising information relating to each advertisement including a total impression goal and advertising weight for any defined target (Carruthers et al. p. 3, paragraphs

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33-35). The combination of Nathaniel and Carruthers et al. and Zigmond et al. does not specifically teach providing a summary view of a total number of scheduled flexible advertisements and a total weight of flexible advertisements for any defined target criteria; however, Cannon discloses a user interface that allows a media planner to create a base advertising plan and a listing of alternative spots to add or remove, media objective values, and weighting values (col. 70, l. 1-14 & Figs. 35, 41). To optimize a plan or schedule, a planner would enter an objective, weighting values, the base plan, and the list of alternative slots. The system would return a listing of the alternative spots ranked according to score (Fig. 41). The user would then select from among the alternatives and add the spot to the list (col. 70, l. 15-22). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the advertiser portal in the combination of Nathaniel and Carruthers et al. and Zigmond et al. to include a graphical user interface allowing an advertiser to compare weighted scores of alternative options for adding an additional advertising slot, such as that taught by Cannon in order to provide a more effective system for scoring, comparing and optimizing advertising campaigns for advertising agencies (Cannon col. 3, l. 21-25).

Referring to claim **15**, the combination of Nathaniel and Carruthers et al., Zigmond et al., and Cannon teaches a computer program product as defined in claim 14, wherein the computer readable medium further carries computer executable instructions for performing a step for notifying an individual utilizing the planning module when a requested impressions of the advertising campaign exceeds the available advertising inventory (Carruthers et al. p. 2, paragraph 25).

Referring to claim **16**, the combination of Nathaniel and Carruthers et al., Zigmond et al., and Cannon teaches a computer program product as defined in claim 14, wherein the computer readable medium further carries computer executable instructions for performing a step for overbooking one or more entries in the schedule of the available advertising impressions (setting a campaign goal that exceeds available advertising inventory projections)(Carruthers et al. p. 2, paragraph 25).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **MICHAEL VAN HANDEL** whose telephone number is (571)272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/  
Supervisory Patent Examiner, Art Unit  
2623

MVH